

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

ROBERT AMBROSE, SCOTT
BARNES, RICHARD CHAPMAN,
RYAN CIRIGNANO, CHRIS
FAUSSETT, MILAN GRUJIC, DAVID
KELLER, JOHN KOBEL, DANIEL
LAWSON, STEPHEN LUTSK, LORI
MAGALLANES, NOAM MEIER,
ERIC OSTRANDER, ROBERT
OVERTURF, and MIKE WORONKO,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

GENERAL MOTORS LLC,

Defendant.

Case No.: 4:19-cv-13449

Hon. Stephanie Dawkins Davis

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Counsel for Plaintiffs in the above-referenced matter write to inform the Court of a recent ruling in the Eastern District of Michigan regarding General Motors LLC's ("GM's") motion to dismiss in *Chapman, et. al. v. General Motors LLC*, No. 2:19-cv-12333-TGB-DRG (E.D. Mich.), which involves multistate allegations regarding a defective CP4 fuel pump. The opinion is attached hereto as Exhibit A.

On March 31, 2021, the Honorable Terrence G. Berg granted in part and denied in part GM's motion to dismiss Plaintiffs' Second Amended Complaint in

Chapman. Many of the issues considered and ruled upon by Judge Berg in *Chapman* are also at issue in GM's pending motion to dismiss.

First, the Court in *Chapman* rejected GM's argument that plaintiffs' claims under Michigan law were time barred. The Court held that allegations of active concealment, which equitably tolled the limitations period, allowed the Michigan plaintiff's claims to proceed. Ex. A at 67-69. Plaintiffs have argued the same in this case. ECF No. 32, PageID.1554.

Second, the Court in *Chapman* rejected GM's argument that plaintiffs had failed to allege the vehicles were unmerchantable because plaintiffs continued to drive their vehicles. Ex. A at 20-22. Instead, it held that plaintiffs had adequately alleged the vehicles were unmerchantable because they were not "safe and reliable." *Id.* at 21. Plaintiffs have argued the same in this case. ECF No. 32, PageID.1562-65.

Third, the Court in *Chapman* rejected GM's argument that certain plaintiffs had failed to provide pre-suit notice and found that plaintiffs' presentment of their vehicles to GM dealerships satisfied the pre-suit notice requirements under the laws of Alabama, Florida, Illinois, Maryland, Montana, New York, Pennsylvania, Virginia. Ex. A. at 26-31. Plaintiffs here have alleged that all Plaintiffs except for one presented their vehicles at GM dealerships or inquire about repairs to alleviate the defect. ECF No. 32, PageID.1567.

Fourth, the Court in *Chapman* ruled that plaintiffs could bring unjust enrichment claims in the alternative and that these claims should not be dismissed at the motion to dismiss stage. Ex. A. at 69-70. Plaintiffs have argued the same in this case. ECF No. 32, PageID.1572-73.

Finally, the Court in *Chapman* rejected GM's argument that plaintiffs did not have standing to bring claims in states for which there was no named plaintiff, noting that "Plaintiffs' complaint is about the CP4 pump and its effects on truck engines, which is alleged to cause harm and is common to all class members, no matter exactly which truck they bought or what the terms of their state consumer protection laws are. The general wrongdoing GM is accused of applies to the Named Plaintiffs and the absent putative class members alike, making the class certification question logically antecedent to the Article III standing question." Ex. A, at 15-16. Again, the Plaintiffs have argued the same in this case. ECF No. 32, PageID.1573-75.

DATED: May 10, 2021

Respectfully submitted,

/s/ E. Powell Miller

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CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2021, I electronically filed the foregoing document using the ECF system which will send notification of such filing to all attorneys of record.

Respectfully submitted,

/s/ E. Powell Miller
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